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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Equal Access and Interconnection	)	CC Docket No. 94-54
Obligations Pertaining to	)	RM-8012
Commercial Mobile Radio Services	)	

REPLY COMMENTS OF AMERITECH

Ameritech submits these reply comments in response to the Commission's Notice of Proposed Rulemaking and Notice of Inquiry in this docket.[1]

I. Equal Access Obligations for Commercial Mobile Radio Service Providers

Among the commenting parties there is a range of opinions as to whether the Commission should require all commercial mobile radio service ("CMRS") providers to provide equal access to interexchange carriers ("IXCs"). There are those who argue that no equal access obligation should apply to non-cellular CMRS providers.[2] There are those who argue that, even for cellular services, equal access obligations should not apply to non-local exchange carrier ("LEC") or IXC affiliates or to small or mid-sized cellular carriers or to carriers operating outside the 50 largest MSAs.[3] However, no party has made a persuasive case for deviating from a principle of regulatory parity.

In the NPRM, the Commission suggested that its decision on equal access requirements might be based on an analysis of market power and other public policy considerations. No CMRS application involves "market power." Clearly, no CMRS, either existing or contemplated, constitutes a "bottleneck" service in the traditional

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[1] In the Matter of Equal Access and Interconnection Obligations Pertaining to Commercial Mobile Radio Services, CC Docket No. 94-54, Notice of Proposed Rulemaking and Notice of Inquiry, FCC 94-145 (released July 1, 1994) ("NPRM").

[2] See, e.g., Comments of Columbia PCS, Dial Page, Inc., and Nextel.

[3] See, e.g., Comments of Maritel and Century.

sense. Even with respect to cellular services, as popular as they have become, no cellular service provider has the unrestricted ability to raise prices or restrict output -- the classic test of market power -- because customers would simply sign up with a competitor. It is Ameritech's experience, in all situations in which it participates either as an A or a B cellular licensee, that customers are not hesitant to switch cellular service providers if given a clear-cut monetary reason for doing so. Given these facts, Ameritech sees no reason for an equal access obligation to be imposed initially on any CMRS provider.

Nonetheless, there are clear public policy benefits to be gained from regulatory symmetry for similarly situated service providers. Imposing like regulatory obligations on those carriers/services that directly compete with one another will promote competitive market conditions[4] by ensuring that no particular competitor has any unique regulatory cost advantage or disadvantage in relationship to its competitors. Therefore, to the extent that BOC-affiliated cellular providers are obligated to provide 1+ access to IXCs, it is important that cellular and other CMRS providers that compete with these service providers should themselves also be required to provide the same type of access to IXCs. Thus, CMRS applications such as wide-area specialized mobile radio ("SMR") services and broad band personal communications services ("PCS") should also be required to provide equal access to IXCs as long as BOC cellular affiliates are so obligated.

The argument that smaller service providers, those providing services in less populous areas, and newly developing services should be exempt misses the mark. Ameritech agrees that no provider should be burdened with an equal access obligation in the first instance. However, once a significant number of market participants are obligated, the rest of the competitive providers must subject to the same requirements

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[4]See, 47 U.S.C. § 332 (c)(1)(C).

or "competitive market conditions" will not be promoted, but inhibited, because of the lack of regulatory symmetry.[5]

In connection with an equal access requirement, however, it might also be appropriate for the Commission to consider the types of calls for which equal access must be provided. In the case landline of services, the Commission's requirements are that local exchange carriers provide equal access for interstate calls. Obviously, for the divested BOCs, the MFJ requires that equal access be provided for interLATA calls, a great portion of which are intrastate in nature. LATAs were drawn with reference to the landline telephone system that have no direct correlation to the communities of interest served by CMRS systems. Although the MFJ has been interpreted as imposing landline LATAs on the BOCs' provision of cellular services, and although the BOCs have requested appropriate relief generally to conform their cellular service areas to better serve their customers, the Department of Justice has recently recommended that the decree court take no action on that request while the issue of equal access and CMRS local calling areas is pending before the Commission.[6] In this light, as long as BOC affiliates have an equal access obligation, Ameritech joins with other carriers in specifically requesting the Commission, in the context of imposing equal access obligations on other CMRS providers, to authorize CMRS "local calling areas." In particular, Ameritech agrees with Pacific Bell that the Commission should take the lead and specify that metropolitan trading areas ("MTAs") better serve the needs of the "mobile" customers that would be using wireless services than do the smaller landline-based LATAs.[7] As wireless customers move from location to location in their daily

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[5] Again, however, there may be certain CMRS applications for which the equal access obligation is simply not meaningful -- e.g., in the case of one-way services like paging.

[6] See, Memorandum of the United States in Response to the Bell Companies' Motions for Generic Wireless Waivers, July 25, 1994, at 48-49.

[7] Pacific Bell at 4-7.

routines, it is clearly in their interest that a substantial portion of their calls be "local" in nature. Like the local communities of interest that LATAs were intended to reflect for landline services, MTAs better reflect that interest for the customers "on the move" that would be utilizing CMRS services. Moreover, the Commission has already concluded that MTAs/basic trading areas ("BTAs") are the appropriate service areas for PCS services.[8] In that light, as long as equal access is to be required of any CMRS providers, the Commission should find that MTAs are the proper equal access service areas for CMRS providers generally.

Finally, in connection with its investigation of equal access, the Commission has inquired as to whether any cellular call screening or "customer profile" data should be made available to IXCs. Ameritech urges the Commission not to adopt any such requirement. The conditions which prevail in the landline environment, that gave rise to the Commission's requirement that such line information database ("LIDB") information be available to IXCs, do not exist in the case of CMRS. In the case of landline services, many people use line number-based calling cards issued by LECs to place calls from public telephones or from other telephones for which they are not the official subscriber. In the case of CMRS, there are no public telephones, and virtually all calls involving IXCs involve a cellular subscriber's using his/her own cellular phone and his/her own presubscribed IXC. In these cases, the IXC and the caller have a preestablished relationship and there is no need for separate access by the IXC to "customer profile" information.

II. Interconnection

Beyond the requirements of equal access however, the issue of direct CMRS-to-CMRS interconnection should be left to the marketplace. Clearly, no CMRS provider

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[8] In the Matter of Amendment of the Commission's Rules to Establish New Personal Communications Service, Gen. Docket No. 90-314, Second Report and Order, FCC 93-451 (released October 22, 1993).

possesses a "bottleneck," and any CMRS customer has access to any other CMRS customer via connections through the landline telephone network. Two cellular providers and up to six PCS providers could serve a given geographical area. Customers will have a number of service providers from which to choose with no particular provider having monopoly status. In this environment, CMRS providers will compete for customers on the basis of service quality. If the marketplace demands direct connection to other CMRS providers, that business decision will be made. There is no reason for the Commission to step in and require those arrangements.

Similarly, with respect to access to cellular databases to facilitate roaming, such interconnection is technically feasible today under national standard IS-41. Again, however, the FCC should not mandate interconnection, but rather leave the issue to the marketplace. If CMRS providers wish to provide roaming services to their customers, it will be in their business interests to enter into the interconnection arrangements necessary to provide that service in the most user-friendly fashion.

Particularly troublesome in this regard is the request of Grand Broadcasting Corporation for the Commission to require cellular carriers not only to interconnect with IBRS/MEMS licensees, but to require cellular carriers to share base station facilities, antennas, receivers, transmitters data and control signaling, processing equipment, power amplifiers, etc., with IBRS/MEMS licensees. Such a requirement goes beyond anything that is even contemplated in the landline environment. Such pervasive requirements should be avoided in the evolving CMRS world where no bottleneck exists.

Finally, LEC-to-CMRS interconnection arrangements should be permitted to continue under the current negotiated arrangement. It has served the industry well, and there is no evidence to indicate that it will not continue to function adequately in the future. It is interesting, however, that certain parties continue to seek heavy-handed regulatory handicapping in this area. For example, Columbia PCS asked the

Commission to prescribe an "equal charge per unit of traffic requirement for all LECs." Such a requirement makes no sense, especially at a time when the Commission is moving away from that requirement for LEC-IXC interconnection.

III. Resale

Just as should be the case with any Commission-imposed equal access requirements, so also any of the Commission's resale requirements and prohibitions should apply equally to all CMRS providers that stand in relation to each other as potential competitors. Simply put, no potential market participant should have an artificial advantage or disadvantage relative to its competitors.

As to whether the resale requirements currently applicable to cellular providers should be more broadly applied, Ameritech encourages the Commission to permit any CMRS provider to restrict resale of its services by any facilities-based CMRS provider after five years after the issuance of the license to the second provider. As the Commission has noted:

> [F]ully operational facilities based cellular carriers differ from other cellular resellers because only those carriers that are Commission licensees can bring into use spectrum that is allocated for cellular service. However, competition in the resale market depends upon the cellular licensee's construction of its facilities. Thus, we conclude that resale restrictions, as applied to a fully operational facilities-based carrier for this radio service, would not constitute unjust and unreasonable discrimination in violation of Section 202(a) of the Act.[9]

The same rationale applies to all CMRS services.

In a related matter, in the context of the Commission's general prohibition against resale restrictions, BellSouth has raised the issue of the interpretation of the Commission's cellular separation requirement embodied in section 22.901 of the Commission's rules. In particular, BellSouth has requested a clarification that the

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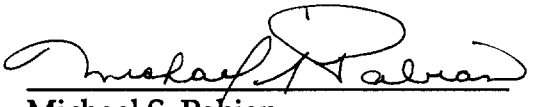
[9] In the Matter of Petitions for Rule Making Concerning Proposed Changes to the Commission's Cellular Resale Policies, CC Docket 91-33, Report and Order, FCC 92-206, 7 FCC Rcd. 4006 at 4009 (released June 8, 1992).

Commission's separate cellular subsidiary requirement, which is applicable only to the RBOCs, be interpreted as not prohibiting resale of cellular service by BOC LECs. BellSouth explains how such a clarification would not conflict with the intent of the Commission's cellular separation rule, which was to bar the LEC from participating in the provision of facilities-based cellular service. Ameritech agrees with BellSouth and would note further that the subsequent implementation of Part 64 and section 32.27 of the Commission's rules dealing with affiliate transactions constitutes an additional check against any cross-subsidization of cellular services. If a BOC LEC purchases cellular services from an affiliate, section 32.27 governs the allocation of cost. In addition, with respect to a BOC LEC's cellular resale activity, Part 64 governs the allocation of costs to this "nonregulated" activity. Thus, the clarification sought by BellSouth would not result in any increase in risk of cross-subsidizing cellular activities by BOC regulated operations. As BellSouth notes, the Commission does not have to modify the existing cellular separation rule to clarify that LECs may resell service. Rather, the rule can simply be interpreted consistent with its initial purpose.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I, Deborah L. Thrower do hereby certify that a copy of the foregoing Reply Comments of Ameritech has been served on the parties listed on the attached service list, by first class mail, postage prepaid, on this 13th day of October 1994.

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